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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 CR 548 (PAC)  
Conference

5 JOSHUA ADAM SCHULTE,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 June 20, 2018  
2:50 p.m.

10 Before:

11 HON. PAUL A. CROTTY,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the  
Southern District of New York

16 MATTHEW LAROCHE

17 SIDHARDHA KAMARAJU

Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK

Attorney for Defendant

19 SABRINA SHROFF

20 HANNAH SOTNICK

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(Case called)

THE DEPUTY CLERK: Counsel, please state your appearance for the record.

MR. LaROCHE: Good afternoon, your Honor. Matthew Laroche and Sid Kamaraju for the government.

THE COURT: Mr. LaRoche, Mr. Kamaraju.

MS. SHROFF: Good afternoon, your Honor.

On behalf of Mr. Schulte, seated to my left Federal Defenders of New York by Sabrina Shroff.

THE COURT: Ms. Shroff.

MS. SHROFF: Good afternoon, your Honor.

With the Court's permission, I have Hannah Sotnick also seated at counsel table.

THE COURT: Mr. Schulte, how are you today?

THE DEFENDANT: All right.

THE COURT: The purpose of today's meeting, Mr. LaRoche and Ms. Shroff, is to arraign Mr. Schulte on the superseding indictment?

MR. LaROCHE: That's correct, your Honor.

THE COURT: All right. Did you explain the process, Ms. Shroff, to Mr. Schulte?

MS. SHROFF: I have, your Honor.

THE COURT: Mr. Schulte, have you received a copy of the superseding indictment?

THE DEFENDANT: I have.

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1 THE COURT: Have you had time to consult with  
2 Ms. Shroff about the superseding indictment?

3 THE DEFENDANT: I have.

4 THE COURT: Do you want me to read the indictment to  
5 you or do you waive the reading of the superseding indictment?

6 THE DEFENDANT: I waive.

7 MS. SHROFF: Do you want to enter a plea now,  
8 Mr. Schulte?

9 THE DEFENDANT: Not guilty.

10 THE COURT: A plea of not guilty will be entered.

11 I understand also, Mr. Schulte, that the first seven  
12 of these counts in the 13-count indictment allege crimes in the  
13 Eastern District of Virginia. Do you understand -- and I'm  
14 sure Ms. Shroff has told you -- you have a right to be tried on  
15 the first seven counts in the Eastern District of Virginia. I  
16 understand you want to waive any challenge to venue and proceed  
17 in the Southern District of New York on the first seven counts?

18 THE DEFENDANT: We just want one week to discuss.

19 THE COURT: OK. Where are we in a week's time, David?

20 MS. SHROFF: Your Honor, I have discussed this matter  
21 with Mr. Schulte preliminarily, and if the Court wanted to see  
22 us back again as early as Monday, that would be fine. If not,  
23 any day next week would also be fine.

24 THE COURT: We can do it on Monday after 4:30 or -- I  
25 have a trial on Monday, a non-jury trial. I can do it on

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1 Monday at 4:30 or later, and any time Tuesday, Wednesday,  
2 Thursday, or Friday.

3 MS. SHROFF: Whatever works for the Court. I'm free  
4 any time.

5 THE COURT: Tuesday morning at 10:00.

6 MS. SHROFF: Tuesday morning is fine.

7 THE COURT: All right. Mr. LaRoche, what about  
8 discovery now on the superseding indictment?

9 MR. LaROCHE: Yes, your Honor. As the Court is aware,  
10 we've already produced a substantial amount of discovery in  
11 this case principally relating to the child pornography  
12 charges. Some of that discovery does overlap with the new  
13 superseding charges.

14 We do intend to produce additional discovery in this  
15 case, principally falling in the following categories: Emails  
16 and other documentary evidence from the CIA. We intend to do  
17 that on a rolling basis as quickly as possible. I would note  
18 that because of the nature of the underlying discovery, we are  
19 working through potential classification issues that we will  
20 work through as quickly as we can to get that produced to the  
21 defendant.

22 We also would like some additional time to discuss  
23 with defense counsel potential CEPA litigation issues. So I  
24 think what we would request is the opportunity to update the  
25 Court in approximately 45 days on the status of discovery.

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1 THE COURT: All right. Ms. Shroff.

2 MS. SHROFF: Well, your Honor, here is preliminarily  
3 the problem Mr. Schulte and I have encountered with discovery.

4 Despite the government's effort, Mr. Schulte has only  
5 this morning received at the MCC a hard drive of discovery.  
6 Prior to that, MCC could not get the discovery working. Last  
7 week they said they had the discovery for him, and they gave  
8 him discovery, but it belonged to another client, and it wasn't  
9 his discovery.

10 So I think there is a level of, well, frustration at  
11 not having access. So I understand that the government says 45  
12 days. I would prefer 30 days, if we could come back for a  
13 status in 30 days on the discovery issue; but if not, we can  
14 live with 45 days.

15 THE COURT: The discovery, as I understand it, is on  
16 the issue of pornography, right? We haven't had any discovery  
17 on the first seven counts.

18 MS. SHROFF: Right.

19 THE COURT: Is that right, Mr. LaRoche?

20 MR. LaROCHE: So there is discovery related to the  
21 first seven counts that is included in, for example, some of  
22 the devices that were seized from the defendant's home, which  
23 has been produced at the outset of this litigation. That said,  
24 there is significant additional discovery on the first seven  
25 counts which we will begin producing on a rolling basis.

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1 THE COURT: You are not going to be able to begin that  
2 until we resolve the issue of venue, correct?

3 MR. LaROCHE: I think it's our intention to begin  
4 producing that discovery, your Honor. Whether the case goes  
5 forward here or in the Eastern District of Virginia, we're  
6 going to need to produce it.

7 THE COURT: All right.

8 MS. SHROFF: I'm just letting the Court know of the  
9 difficulty I'm having getting the discovery to Mr. Schulte at  
10 the MCC. I'm describing it for the Court in the event we have  
11 to have some intervention with the MCC. Mr. LaRoche has  
12 repeatedly offered tried to work something out, but we're still  
13 having difficulty.

14 THE COURT: Thank you for bringing it to my attention.

15 MR. LaROCHE: We have no objection to providing that  
16 status update in 30 days, your Honor.

17 MS. SHROFF: That would be better for Mr. Schulte,  
18 your Honor.

19 THE COURT: Fine.

20 MS. SHROFF: Thank you.

21 THE COURT: Do we have a time, David?

22 THE DEPUTY CLERK: For next week?

23 THE COURT: Yes.

24 THE DEPUTY CLERK: Tuesday at 10:00 a.m.

25 THE COURT: Does that work for everybody?

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1 THE DEPUTY CLERK: June 26?

2 MR. LaROCHE: Yes, your Honor.

3 THE COURT: What's June 26. That's next Tuesday?

4 THE DEPUTY CLERK: Yes.

5 THE COURT: Anything else to take up before we  
6 adjourn?

7 MR. LaROCHE: Your Honor, the government moves to  
8 exclude time until the next conference in the interest of  
9 justice under the Speedy Trial Act. The basis for the  
10 exclusion is so that the government can continue producing  
11 discovery and the defendant can continue reviewing that  
12 discovery.

13 THE COURT: And also consult with counsel about the  
14 decision I've rendered.

15 Any objection, Ms. Shroff?

16 MS. SHROFF: No, your Honor.

17 THE COURT: The time between now and next Tuesday,  
18 June 26, will be excluded. It's in the interest of justice to  
19 do so for the reasons stated. Those reasons outweigh the  
20 interest of the public and the defendant in a speedy trial.

21 See you on June 26 at 10:00 in the morning. Thank you  
22 very much.

23 (Adjourned)

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